

**REMARKS**

Claims 1-25 are currently pending.

The claimed invention combines a particular surfactant system and a particular cationic polymer. This combination of elements yields cleansing compositions which have good rinsability and which have a voluminous foam having small bubbles which is soft and dense. None of the cited art teaches or suggests cleansing compositions containing this particular combination of elements, or the benefits associated with such compositions.

The Office Action rejected claims 1-25 as obvious under 35 U.S.C. §103 over U.S. patent 6,090,773 ("Lukenbach") in view of U.S. patent 6,262,130 ("Derian"). In maintaining this rejection, the Office Action asserted that:

- (1) The Rule 132 declaration submitted August 26, 2004, is deficient because it is not clear what the data in the declaration represents or how the data was measured;
- (2) The Rule 132 declaration submitted August 26, 2004, is deficient because it does not compare the present invention with a composition comprising a cationic polymer comprising saccharide groups; and
- (3) The Rule 132 declaration submitted April 25, 2002, is deficient because the cationic polymers are not the only variable.

In view of the following comments, Applicants respectfully request reconsideration and withdrawal of the § 103 rejection.

Submitted concurrently herewith is a fourth Rule 132 declaration. This declaration explains:

- (a) Sensory criteria set forth in the declaration are determined in accordance with the disclosure at pages 17-18 of the present specification. (Rule 132 dec., par. 6). The Rule 132 declaration submitted August 26, 2004 (at par. 6), also contains this explanation. Thus, the meaning of this data and the way in which it was gathered is set forth on pages 17-18. Accordingly, the Office Action's assertion (1) has been rendered moot;
- (b) Compositions having an anionic phosphate surfactant and a cationic polymer devoid of saccharide groups have better rinsability and are more viscous than compositions having an anionic phosphate surfactant and a cationic polymer containing saccharide groups. (Rule 132 dec., par. 8). The Rule 132 declaration submitted April 25, 2002, also demonstrates the superiority of compositions containing a cationic polymer devoid of saccharide groups over compositions having a cationic polymer containing saccharide groups. (Rule 132 dec., par. 8). Thus, the Office Action's assertion (2) has been rendered moot; and
- (c) The different surfactant concentrations in the compositions in the April 25, 2002 declaration do not materially affect the rinsability characteristics of the compositions. (Rule 132 dec., par. 8). In other words, both the data in the current Rule 132 declaration and the data set forth in the April 25, 2002, declaration demonstrate that invention compositions having an anionic phosphate surfactant and a cationic polymer devoid of saccharide groups have better rinsability characteristics than compositions having an

anionic phosphate surfactant and a cationic polymer containing saccharide groups regardless of whether the surfactant concentration is the same or different. (Rule 132 dec., par. 8). Thus, the Office Action's assertion (3) has been rendered moot.

Accordingly, each of the perceived deficiencies in the previously submitted Rule 132 declarations has been addressed and rendered moot. Thus, even assuming that the Office Action has set forth a *prima facie* case of obviousness --which is not the case-- Applicants' showing of "unexpected and surprising" results set forth in the four Rule 132 declarations submitted in this case rebut such a hypothetical case of *prima facie* case of obviousness.

More specifically, the Rule 132 declaration submitted concurrently herewith demonstrates that Invention Composition A containing an anionic phosphate and a cationic polymer devoid of saccharide groups has significantly smaller bubble size, significantly more dense foam and significantly improved rinsing properties than compositions containing a surfactant other than an anionic phosphate or a cationic polymer containing saccharide groups.both Comparative Examples. (Rule 132 dec., par. 6). The declaration also demonstrates that the claimed compositions have significantly improved foam volume properties than Comparative Example 3. (Rule 132 dec., par. 6).

As explained in the declaration, these results demonstrate that cationic polymers containing saccharide groups lead to compositions which are difficult to rinse as compared to compositions containing cationic polymers lacking saccharide groups (compare 6.5 of Comparative Example 2 with 9.1 of Invention Composition A). (Rule 132 dec., par. 7). These results also demonstrate that anionic surfactants which are not phosphates lead to

compositions which (a) are more difficult to rinse (compare 8.1 of Comparative Example 3 with 9.1 of Invention Composition A); and (b) have low foam density (compare 6.3 of Comparative Example 3 with 7.5 of Invention Composition A) as compared to compositions containing anionic phosphates. (Rule 132 dec., par. 7).

The declaration also explains that the Rule 132 declaration submitted December 8, 2003 demonstrates that compositions having an anionic phosphate surfactant and a cationic polymer devoid of saccharide groups have smaller bubble size and greater foam density than compositions having a different type of anionic surfactant and a cationic polymer devoid of saccharide groups, and that the data set forth in the new declaration supplements this data. (Rule 132 dec., par. 9). The current declaration also explains that the data therein demonstrates that compositions having a cationic polymer containing saccharide groups have larger bubble size and lesser foam density than the invention compositions containing polymers devoid of saccharide groups. (Rule 132 dec., par. 9).

The current declaration goes on to explain that the Rule 132 declaration submitted August 26, 2004 demonstrates that the invention compositions having an anionic phosphate surfactant and a cationic polymer devoid of saccharide groups have greater foam volume and density than compositions having only an anionic phosphate surfactant, and that the data set forth in the new declaration supplements this data. (Rule 132 dec., par. 10). The current declaration also explains that the data therein demonstrates that compositions having a cationic polymer containing saccharide groups have lesser foam density than the invention compositions containing polymers devoid of saccharide groups. (Rule 132 dec., par. 10).

The current declaration then explains that the improved sensory characteristics obtained with the invention compositions in all of the Rule 132 declarations are representative of the present invention. (Rule 132 dec., par. 11). That is, it would be expected that compositions comprising a surfactant component consisting essentially of at least one phosphate surfactant and at least one foaming non-ionic surfactant, and at least one cationic polymer devoid of saccharide groups in an aqueous medium, the composition having the appearance of a transparent gel, would possess improved sensory characteristics like those of the exemplified invention compositions. (Rule 132 dec., par. 11).

The declaration then states that, in contrast, the comparative examples containing an anionic surfactant other than an anionic phosphate and/or a cationic polymer having saccharide groups possessed inferior sensory characteristics as compared to the invention compositions, and that this difference in sensory characteristics demonstrates the criticality of having both an anionic phosphate and a cationic polymer devoid of saccharide groups in the invention compositions. (Rule 132 dec., par. 12). This difference in sensory characteristics was unexpected and surprising. (Rule 132 dec., par. 12).

Finally, the current declaration explains the commercial significance of the improved sensory characteristics associated with the claimed compositions. The declaration explains that smaller bubble size and higher foam density are desirable physical properties for cleansing compositions because such properties lead to cleansing compositions having more commercially desirable characteristics such as, for example, better staying power and foam consistency, and that improved rinsibility is a desirable characteristic for commercial cleansing compositions. (Rule 132 dec., par. 13).

Clearly, all evidence of record demonstrates that “unexpected and surprising” benefits are associated with the claimed compositions. Accordingly, to the extent a *prima facie* case of obviousness exists, it has been rebutted and the § 103 rejection must be withdrawn.

Notwithstanding the above, no *prima facie* case of obviousness exists. Lukenbach teaches that several cationic polymers can be used in his compositions. For example, Lukenbach states that polyquaternium-7 (col. 11, line 64), cellulose derivative polyquaternium-10 (col. 11, line 35) and cationic guar derivatives (col. 11, line 39) can be used. Significantly, Lukenbach neither teaches nor suggests that using polymers lacking saccharide groups such as polyquaternium-7 would yield better compositions than using any of the other disclosed cationic polymers. Similarly, Lukenbach teaches that several anionic surfactants such as, for example, alkyl sulfates, alkyl ether sulfates, alkyl monoglyceryl ether sulfates, etc. (see, cols. 8-10) can be used. Also significantly, Lukenbach neither teaches nor suggests that using an a phosphate surfactant would yield better compositions than using any of the other disclosed surfactants.

Contrary to Lukenbach’s teachings, however, the specific cationic polymer used and the specific anionic surfactant used are important as demonstrated by the Rule 132 declarations submitted in this case. Thus, contrary to Lukenbach’s teachings, the specific cationic polymer used and the specific anionic surfactant used are important. Accordingly, Lukenbach completely fails to teach, suggest or recognize the significance of the claimed invention.

Moreover, based on Lukenbach’s disclosure which does not attach any significance whatsoever to using a cationic polymer devoid of saccharide groups **and** a phosphate

surfactant, one skilled in the art would not have expected that using both of these ingredients in a single composition would yield a composition having significantly improved rinsability, viscosity, foam bubble size and foam density characteristics, all of which translate into a more desirable commercial product.

Derian, which is cited solely for its disclosure of specific alkyl phosphate surfactants, does not compensate for Lukenbach's deficiencies.

For this reason alone, claims 1-25 are free of the cited art. Accordingly, Applicants respectfully request reconsideration and withdrawal of the pending §103 rejection.

Moreover, claims 1-24 are free of the cited art for another reason as well. Lukenbach requires the presence of an amphoteric surfactant. No suggestion or motivation exists to modify Lukenbach in such a way as to eliminate an essential element from Lukenbach's compositions. Thus, no motivation or suggestion exists for one skilled in the art to obtain the invention of claims 1-24.

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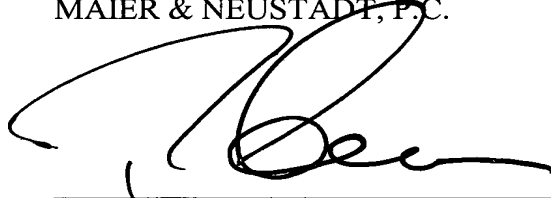
Response to Office Action dated December 8, 2004

The presently pending claims are believed to be in condition for allowance.

Accordingly, the Examiner is respectfully requested to pass this application to issue.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
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A handwritten signature in black ink, appearing to read 'R. Treanor', is written over a horizontal line.

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